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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,064	01/06/2005	Paul Hoyes	58323-307440	2112

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EXAMINER
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PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/502,064	HOYES, PAUL	
	<b>Examiner</b>	<b>Art Unit</b>	
	David J. Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7-21-04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## **Detailed Action**

### ***Preliminary Amendment***

1. Entry of applicant's preliminary amendment dated 7-21-04 into the application file is acknowledged.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of lifting members as seen in claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

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should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent

No. 4,208,828 to Hall et al.

Referring to claim 1, Hall et al. discloses an insect monitor comprising, a base – at 11, a lid – at 22, hinged at one edge to the base – see figure 4, in which the lid can be displaced between an open position – see figure 4, and a closed position – see figure 2, and an insect attracting sheet – at 20,21, and in which the lid includes at least one lifting member – at 23, which can engage the insect attracting sheet while the lid is moved between its open and closed

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positions so that the distance between the sheet is greater when the lid is in the open position than when its in the closed position – see for example figures 2 and 4.

Referring to claim 2, Hall et al. discloses the base – at 11, includes a side wall – see the walls of the enclosure – at 11 in figure 1, having internal and external surfaces which define the space in which the insect attracting sheet – at 21,22, is received – see for example figures 1-4.

Referring to claim 3, Hall et al. discloses the side wall has a gap – see the open front covered by the lid 22 as seen in figures 2-4, in it which is located so that the lifting member – at 23, can move through the gap as the lid – at 22, is moved between its open and closed positions – see for example figures 2-4 where the lifting member is capable of moving through the front opening when the lid – at 22 is moved to its lowermost open position where it is even with the bottom of the base as seen in figure 3.

Referring to claim 4, Hall et al. discloses in which an aperture – at 12 or 17 or 18, is defined between the base – at 11 and lid – at 22 when the lid is in the closed position – see for example figures 1-2.

Referring to claim 6, Hall et al. discloses the external surface of the wall of the base slopes upwardly – see at 14 and 15 in figures 1-2.

Referring to claim 7, Hall et al. discloses the internal surface of the wall of the base – at 11, is substantially vertical – see the vertical sidewalls of item 11 in figures 1-2.

Referring to claim 8, Hall et al. discloses at least two projecting members – at the clip and screws which mount the clip to the lid as seen in figures 2 and 4, extend from the lid – at 22 – see figures 2 and 4, the at least two projecting being adapted to cooperate with the at least one lifting member – at 23, to support the insect attracting sheet – at 20,21, as the lid is moved to the

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open position – see for example figures 2-4 where in figure 3 the sheet – at 20,21, is pulled from the base – at 11, and the clip on the lid – at 22, is capable of supporting the sheet – at 20,21 when the sheet is pulled over the clip.

Referring to claim 9, Hall et al. discloses the side wall is provided with at least one clip – see the projection on the upper wall of the base – at 11, which engages the clip member of the lid – at 22 as seen in figure 2.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al. as applied to claim 4 above, and further in view of U.S. Patent No. 5,454,186 to Gang. Hall et al. does not disclose the aperture extends substantially around periphery of the base and lid. Gang does disclose the aperture – between items 3,4,6 as seen in figure 3, extends substantially around the periphery of the base and lid – at 3,4,6 – see figure 3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hall et al. and add the aperture extending around the periphery of the base and lid of Gang, so as to allow for more insects to be allowed to enter the device at one time to increase the effectiveness of the device.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al. as applied to claim 1 above. Hall et al. does not disclose a plurality of lifting members. However, applicant does not disclose that having a plurality of lifting members is critical to the operation of the invention. Therefore, it would have been obvious to one of ordinary skill in the art to take the device of Hall et al. and add the plurality of lifting members so as to facilitate quicker and easier moving of the attractive sheet.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to insect traps in general:

U.S. Pat. No. 4,423,564 to Davies et al. – shows insect trap

U.S. Pat. No. 4,425,731 to Orlando – shows insect trap

U.S. Pat. No. 4,485,581 to Roccaforte – shows insect trap

U.S. Pat. No. 4,696,127 to Dobbs – shows insect trap

U.S. Pat. No. 4,815,231 to McQueen – shows insect trap

U.S. Pat. No. 4,819,371 to Cohen – shows insect trap

U.S. Pat. No. 5,588,250 to Chiba et al. – shows insect trap

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890.

The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley  
Patent Examiner  
Art Unit 3643